

Application No.: 10/584,964
Filing Date: April 23, 2008

REMARKS

Information Disclosure Statement

Foreign patent references from the Information Disclosure Statement of 6/30/06 which were not previously considered due to absence of a complete copy of the foreign patent reference have been resubmitted with the Information Disclosure Statement filed December 5, 2008 along with the reason for listing (the International Search Report). Applicants also submit herewith an Information Disclosure Statement with additional references which have been cited in foreign counterpart applications. Consideration of all of the references is respectfully requested.

Abstract

A Replacement Abstract is submitted herewith on a separate sheet.

Claim objections

Claim 50 has been amended to include the disclosure from Table 1 in the claim. Support for the Test conditions of 20°C temperature and relative humidity of 65% within 20% variance is provided at the bottom of page 4 (lines 28-31). Accordingly claim 50 no longer makes reference to Table 1. Claim 51 has been rewritten in independent form.

In view of Applicant's amendments, withdrawal of the objections to the claims is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

Claims 31-53 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherrill, et al. (US 3721273).

Sherrill, et al. describe a terry towel of which the ground fabric, i.e., ground warp (Fig. 3, No. 10) and ground weft (Fig. 3, No. 11) are made of "stable fibers other than rayon" and preferably "cotton fibers or blends" (col. 4, lines 29-31). The loops of the terry towel extending on the upper side of the ground warp are made of rayon fibers (Fig. 3, No. 12) which are sheared or cut (col. 2, lines 2-3). The loops of the terry towel extending on the lower side of the ground warp are made of cotton fibers (Fig. 3, No. 13; col. 4 line 34). The rayon fibers of Sherrill, et al. are formed of regenerated cellulose such as viscose or cuprammonium (col. 2, lines 15-19).

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The looped fabric of claim 31 differs from the fabrics disclosed by Sherrill, et al. by a specified composition that includes bamboo fibers in the fabric loops. While Sherrill, et al. refers to rayon, there is no teaching of bamboo fibers in Sherrill, et al. in contrast to the claimed invention.

Furthermore, in Applicant's claimed invention, it is required that "said looped fabric has a weight between 200 and 1700 gram/m²...and... the number of warp threads per cm fabric is between 21 and 34, the number of weft threads per cm fabric is between 10 and 28, and the number of loops per cm fabric is between 3 and 9" (claim 31).

The particular choice of weight for the looped fabric, number of warp threads, weft threads and loops per cm looped fabric are critical to obtain improvements in loop firmness and anchorage of the bamboo loops in a cotton ground fabric. By combining the specific parameters as claimed in present claim 31, a looped fabric is provided in which the loops are not too loose and cannot easily be broken or be pulled out of the fabric. As a result, the fabric maintains its aesthetic character, quality, and functionality, in particular, its water absorbent capacity.

The result of the invention is a looped fabric that makes use of the qualities of bamboo and cotton to the full and that maintains those qualities after a number of washings, and in which the strength of the looped fabric in general, and the loop firmness and anchorage more in particular, is enhanced by the specific combined choice of claimed technical parameters.

The resulting fabric shows the favorable characteristics of bamboo fibre as well as cotton fibre without losing loop firmness and strength of anchorage of the loops in the ground fabric of the looped fabric.

The Office Action takes the position that Applicant's claimed parameters with regards to "fabric weight, warp density, weft density, pile density on each or both sides of the fabric pile length/height, weight of bamboo or regenerated cellulose loops in the fabric, yarn count, and towel border length" are merely a change in size / proportion which would be obvious to one of ordinary skill in the art of towel production (see Office Action, page 5, from second paragraph to end of page). However, as stated in M.P.E.P. 2144.05:

A particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine

experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977) (The claimed wastewater treatment device had a tank volume to contractor area of 0.12 gal./sq. ft. The prior art did not recognize that treatment capacity is a function of the tank volume to contractor ratio, and therefore the parameter optimized was not recognized in the art to be a result- effective variable.). See also *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (prior art suggested proportional balancing to achieve desired results in the formation of an alloy).

Sherrill, et al. provide no teaching or guidance to the skilled person desiring to incorporate bamboo loops into a cotton ground fabric with sound anchorage of the loops and maintenance of functionality, such as water absorbance. In contrast to the claimed invention, Sherrill, et al. do not provide any information on characteristics of weight and yarn number in the different fabric layers. Sherrill, et al. do not provide any guidance to a skilled person to make correct selections of suitable parameters out of a high number of possibilities to arrive at a towel having the advantageous properties as discussed above.

Based upon Sherrill, et al. there is no guidance for a skilled person to use the specific number of warp, weft and loop threads and specific weight as claimed in order to improve loop firmness and anchorage of the loops in the ground fabric.

There is no teaching or indication in Sherrill, et al. that the use of bamboo fibers might entail particular constraints, in particular, problems to firmly anchor the bamboo loops in the ground fabric.

Faced with the information in Sherrill, et al. and the absence of any indication for possible problems of using bamboo fibers in the loops of a looped fabric or suggestions for parameters, there is no expectation of success for the skilled person to arrive at a fabric containing loops of bamboo fiber in which the loops are sufficiently anchored.

Claim 51 is non-obvious for the same reasons provided above for claim 31.

In particular, claim 34 is not taught by Sherrill, et al. Claim 34 specifies that the bamboo loops are provided at both sides of the ground fabric. In contrast, Sherrill, et al. specifically teach "It is therefore another object of this invention to provide a terry towel having cotton terry loops on one side thereof and having sheared or cut rayon terry pile tufts on the other side thereof" (col. 1-2, bridging sentence). Accordingly, Sherrill, et al. specifically teach away from a preferred embodiment of the invention as described at page 5, lines 1-2 of the present specification and claim 34.

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In view of Applicants' amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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